

Alaska Department of Environmental Conservation
And
Environmental Protection Agency
State Fiscal Year 2006
July 1, 2005 – June 30, 2006

This agreement constitutes the State of Alaska's relationship with the United States Environmental Protection Agency (EPA) under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation (DEC) enters the agreement for the State of Alaska with EPA Region 10 for state fiscal year 2006 (July 1, 2005 – June 30, 2006).

This Agreement describes the expected work and performance results for each of the agencies. The PPA is an important tool that strengthens the protection of the environment by encouraging flexibility to focus on the activities that achieve the best environmental results consistent with the missions and authorities of each agency.

Disputes regarding the performance of either party to this Agreement will be resolved at the lowest level possible within our respective organizations. If this is not feasible or successful, the next level for dispute resolution will be the managers responsible for the program area in questions. The final level of appeal will be the DEC Commissioner and the Regional Administrator for EPA Region 10.

DATE: June 17, 2005

Kurt Fredriksson, Commissioner
Alaska Department of Environmental Conservation

DATE: _____

Ron Kreizenbeck, Acting Regional Administrator
U.S. Environmental Protection Agency, Region 10

Table of Contents

- I. Introduction and Purpose
- II. Missions
- III. Agreement Coverage
- IV. EPA/DEC Priorities
 - A. Region 10 Priorities
 - 1. Timely communication on controversial projects/issues
 - 2. Rural air quality
 - 3. Tribal capacity building performance results
 - B. DEC Priorities
 - 1. State due deference
 - 2. Grant allocation parity
 - 3. Timely approval of NPDES primacy application
 - 4. Timely approval of Water Quality Standards
 - 5. Complete statewide EMAP
 - 6. Fish tissue monitoring
 - 7. Non-point source pollution controls
 - 8. Environmental Health Laboratory utilization
 - 9. Drinking water rules and primacy delegation approvals
 - 10. Pesticide application technical assistance
 - 11. Collaborative Training
- V. Compliance
- VI. Performance Reporting
- VII. Conflict Resolution
- VIII. Air and Pesticides workplan (attached)
- IX. Water workplan (attached)
- X. Drinking water workplan (attached)

I. Introduction and Purpose

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency and States to address the most pressing environmental problems jointly. Common goals, priorities, and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment. Performance Partnership Agreements (PPA) are intended to strengthen protection of the environment by focusing attention on the overall environment protection goals and the actual results of efforts to achieve them, not on government programs and the number of actions they take.

This State Fiscal Year (SFY) 2006 PPA describes the overlapping missions of DEC and EPA for protecting Alaska's environment. The agreement captures how each agency will work together to establish joint priorities and performance expectations to address Alaska's most important environmental issues.

The purpose of the agreement is to:

- Establish mutual priorities and performance expectations for both agencies during SFY 2006.
- Establish a joint workplan for guiding federal Performance Partnership Grant (PPG) funds for DEC's air quality program, water quality program, and pesticide program.

This agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities. The agreement also includes workplan activities in DEC's water, air, and pesticide programs for PPG funding during the period July 1, 2005 – June 30, 2006.

II. Missions

DEC and EPA Region 10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

III. Agreement Coverage

This Agreement is based on the National Environmental Performance Partnership System which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes joint DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

This Agreement includes the workplan commitments required for water quality program federal grants, pesticides and air quality program grants and the drinking water grant in Alaska (attached). Grants covered in this Agreement are listed under the specific program workplans in Sections VIII and IX, and X. This Agreement constitutes the DEC and EPA workplan for the award of grants under a single Performance Partnership Grant (PPG) for each of these programs. The purpose of the PPG is to reduce the administrative burden by consolidating several grants into one for each of these programs and to increase the flexibility of DEC to move resources within the air, pesticide, and water quality programs to meet Alaska's highest environmental needs.

As explained in the draft FY 2006 update for the National Environmental Performance Partnership System National Guidance, "once funds are awarded in a PPG, the state can direct the funds as needed to achieve work plan commitments and does not need to account for funds in accordance with their original funding program sources." PPG expenditures should be focused on state priorities using funding methods and workplans developed by the state. At the end of the year, DEC is not expected under this agreement to account for how PPG funding has been allocated by the original funding program source.

IV. EPA/DEC Priorities

A. EPA Priorities

EPA Region 10 has identified the following 7 Regional Priorities that merit special attention and inter-Office coordination within Region 10,

1. Oil, Gas & Mining;

2. Fine Particulates from Smoke & Diesel Emissions;
3. Grants Management;
4. Tribal Environmental Health;
5. The Coeur d'Alene Basin & Spokane River;
6. Puget Sound-Hood Canal; and
7. The Columbia River.

Expectations for progress on EPA Region 10 priorities that apply to Alaska are described in the following goals for timely communication on controversial projects or issues, controlling rural dust and diesel emission impacts on human health, and tribal capacity building.

1. Timely communication on controversial projects/issues

In the past, timely communication between DEC and EPA on large or controversial projects or issues has been a work in progress. In order to encourage effective communication

DEC and EPA will:

- For mining and oil and gas projects, appoint a primary point of contact who will meet to review the status of ongoing projects, review federal and state legal and policy requirements, and identify any issues needing review.

TRI – National

EPA's annual Toxics Release Inventory (TRI) ranked Alaska first in the nation for total toxic pollution releases. Most of the toxic chemical releases and other waste management activities in Alaska that are included in EPA's inventory are trace elements in mined rock.

DEC and EPA will:

- Coordinate announcements to include EPA quote(s) in news release explaining the TRI data to coincide with EPA's public announcement of data release.

DEC will:

- Work with EPA to draft an Alaska-specific TRI document.

EPA will:

- Assign staff to work with DEC to draft an Alaska-specific TRI document that provides additional context on factors to consider for Alaska's TRI releases and other waste management activities. EPA is willing to help Alaska tailor the Public Data Release brochure and the current "Factors to consider when using TRI data" brochure to help Alaska educate its citizens on TRI.
- Maintain continued timely notice of activities from headquarters, such as proposed rulemaking changes, that may affect Alaska.

2. Health Concerns in Rural Alaska from Airborne Particulates – fine particle dust

DEC has suspected for some time that fine particle dust pollution in rural communities may be violating Clean Air Act health standards for PM₁₀. During the past two years DEC, in collaboration with Northwest Alaska communities and Alaska DOT, has conducted ambient air monitoring that has revealed numerous violations of the health standard in Kotzebue and Bethel with violations also measured in Buckland and Ambler. DEC suspects similar conditions of high PM₁₀ pollution exists in perhaps a hundred or more rural communities during spring through fall when dry conditions prevail.

The pollution is caused primarily by vehicle and 4-wheeler traffic on unpaved roads and unvegetated areas, and wind scarification and erosion of loose surface materials including glacial till and fine sands from river delta areas.

Many communities and tribes are interested in undertaking ambient air monitoring projects to document the extent of this pollution problem. While DEC and EPA will provide assistance for monitoring projects, DEC, ADOT, and EPA need to focus attention on evaluating the improvements that may be accomplished through various dust mitigation options.

DEC and EPA will:

- Communicate regularly as new monitoring or mitigation information becomes available.
- Work collaboratively in communicating and working in partnership with the Northwest Arctic Borough and other local governments and tribes affected by adverse PM₁₀ pollution.

- Strive to secure the use of Congestion Mitigation and Air Quality (CMAQ) funds through the Federal Highways Administration for use in mitigation or assessment of this problem in rural Alaska.

DEC will:

- Continue ambient air monitoring in Kotzebue for the spring through fall of 2005 and 2006.
- Based upon ambient measurements through September of 2005, determine if the State will request EPA to designate Kotzebue and other areas within the Northwest Arctic Borough as non-attainment for 24 hour exposures of PM10 pollution.
- Work in partnership with Alaska Department of Transportation and Public Facilities (ADOT), the Northwest Arctic Borough, and the City of Kotzebue to undertake roadway based PM10 mitigation studies and remedies to reduce PM10 exposure to the extent state or federal funds are made available through ADOT or the Federal Highways Administration.
- Provide assistance to the Northwest Arctic Borough, the City of Kotzebue, NANA Regional Corporation, Manniliq health corporation, and Kotzebue based tribes in assessing pollution conditions, assessing dust mitigation options or related matters.
- To the extent practical for DEC air quality division, provide similar assistance to villages within the Northwest Arctic Borough.

EPA will:

- Not oppose any legislative proposals the State may advocate to open opportunities through federal legislation to apply federal highway funds for rural Alaska PM10 problem locations while those locales are not formally designated as non-attainment areas.
- Strongly support ambient air monitoring projects or PM10 mitigation assessment projects that Alaska tribes desire to undertake using federal funds to resolve PM10 pollution in their respective villages or communities.
- Give fair consideration to any request made by the State to designate one or more locales in Alaska as non-attainment for PM10.
- Continue to seek opportunities for Alaska to use 'mandatory' CMAQ funds for roadway and trail dust mitigation through any vehicle possible that does not require designation of the locale as non-attainment; i.e. early action compact or similar process.

Rural Diesel Emissions Health Risk Assessment

Unlike exposure to roadway diesel emissions in other regions, exposure to stationary source diesel emissions in Alaska villages and rural communities is a unique air quality issue in Region 10. There is no statewide power grid in Alaska and most communities rely on diesel engines for electrical power. Studies have measured the human health risks from exposure to diesel engine emissions from mobile roadway sources. To achieve DEC and EPA Region 10's common objectives to reduce the risk to public health from toxic air pollutants, the health risks of exposure to diesel emissions in Alaska's rural communities must be evaluated. Alaska rural power plants may represent a significant health risk. However, Alaska cannot further regulate the power plants to require additional control technology and cleaner fuel unless we have a strong scientific case that is specific to the Alaska rural exposure setting and source type.

During SFY 2004, EPA experts assisted DEC in developing a study scope for the rural diesel health assessment.

In SFY 2005, DEC performed modeling reviews of numerous communities to determine optimum communities or villages for a pilot phase ambient air health assessment. Based on modeling results, DEC worked with two preferred communities to prepare for the pilot phase study that will commence in the fall and winter of 2005.

Once the pilot phase results are available, DEC will assemble a scientific review panel to peer review the study design and methodologies to determine if a full field study can produce scientifically valid information about health risks. Should the full field study proceed, it will likely be undertaken in SFY 2007 simultaneously in more than one rural community or village.

DEC and EPA will:

- Communicate with the chosen study communities to convey the purpose and findings of the study with periodic updates to inform the community of study progress; this will primarily be a DEC task.
- As the study is implemented, share scientific knowledge or resolve field study problems.
- Evaluate the study results with respect to options for stationary source emission controls and/or other appropriate mitigation measures.

DEC will:

- Inform rural Alaska communities and tribes of the research purpose, goals, schedule, data gathering techniques and the implications of the research.

- Execute the pilot phase study in SFY 2006.
- Finalize the study design following the pilot phase and peer review with the expected completion date of SFY 2007.
- Take the lead in communicating with other rural Alaska communities and Tribes about the diesel health assessment work so those communities can be better prepared to make decisions about the use of ultra low sulfur diesel fuel conversion in their community.
- Take the lead in executing the full field study provided the peer review establishes scientific merit for the study design.

EPA will:

- Support DEC as it seeks funding for this study from EPA Headquarters or EPA Research Labs as a unique regional issue in the Region's Strategic plan. This work is expected to require funding in excess of discretionary state funds or normal Clean Air Act Section 105 grant funds available to Alaska.
- Identify and assist in contacting additional consultation from EPA experts across the country knowledgeable in this field of risk assessment and field monitoring.
- Assist DEC should the study features or logistics to execute the study require unique regulatory, policy, consultative, or interpretive actions by EPA.
- To the maximum extent possible, support Alaska tribal governments and Alaska native health corporations who desire to participate with DEC in executing the pilot phase or full field phase study using eligible federal funds that may become available to tribes.
- Work with DEC staff to identify and create opportunities to share program information about the Rural Diesel Health Assessment with Alaska tribal governments.

3. Tribal Capacity Building Performance Results

DEC has identified several environmental issues that are specific to tribes in rural Alaska, including the effects of long term exposure to the exhaust from the diesel generators that power nearly all of the rural villages, the presence of heavy metals and PCBs in Alaska's fish-based subsistence diet, the impacts to surface or groundwater from poorly located community garbage disposal sites, and sustainable operation and maintenance of Village Safe Water projects.

EPA has a government to government relationship with, and trust responsibility to tribes. Its 1984 Indian policy stressed two related

themes: (1) that the Federal Government will pursue the principle of Indian “self-government” and (2) that it will work directly with tribal Governments on a “government-to-government” basis.

EPA Region 10 will continue to work in partnership and consultation with all federally recognized tribes. EPA recognizes that tribes have the authority to set their own environmental priorities, and will continue to work with tribes in a manner that acknowledges tribal sovereignty and self-determination. In implementing the Indian Environmental General Assistance Program (GAP), EPA works to build tribal environmental capacity and adequate internal mechanisms to help tribes improve environmental protection. The GAP provides grants to Tribes for the purpose of developing their capacity to develop and implement environmental protection programs. GAP resources may also be used to implement solid and hazardous waste programs. In light of the unique solid waste challenges faced in Alaska Native Villages, EPA Region 10 will continue to utilize the implementation authority provided under GAP to assist tribes in the development and implementation of integrated waste management programs. The GAP is neither designed nor intended to be the primary source of funding the environmental needs of tribes. Rather it is intended to serve as a bridge, enabling tribes better access to media-specific funding such as that provided under the Clean Water Act, Clean Air Act, etc.

Under Alaska’s federally recognized constitution, Alaska Natives and members of Alaska’s federally recognized tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state’s elected officials.

DEC’s priorities for rural Alaska generally and specifically for Alaska Native Villages includes the operation and maintenance of solid waste disposal sites, sewer and water systems, dust control, diesel emission controls, and monitoring of wild and traditional subsistence foods. EPA Region 10 intends to work cooperatively with DEC to enhance tribal government participation in these priority areas.

Solid Waste

To address this issue, EPA Region 10 Office Solid Waste and Toxics Unit will work jointly with representatives from DEC, other federal agencies and federally-recognized tribes to understand the respective environmental priorities of all entities and discuss available resources, funding and actions which can be used to maximize tribal public health and environmental outcomes. Each agency will appoint one or two representatives to lead their respective organizations in this endeavor.

DEC will:

- Provide information to Alaska tribes and EPA on Alaska's environmental statutes, regulations, and DEC's responsibilities, services, priorities, and expectations of the solid waste program.
- Provide draft solid waste regulations to EPA for a review before sending the new regulations package out for official public comment.
- Participate in discussions to share program information, and provide technical assistance to tribes regarding solid waste management.
- Participate in discussions with EPA on how DEC's proposed manual of new Class III regulations may be used in lieu of a tribal waste management plan.

EPA will:

- Provide information to DEC on program grants to Alaska tribes including work done under the Indian Lands Open Dumps grant.
- Identify tribal grantees by media interest and proposed projects and develop opportunities for open communication and coordination between DEC technical specialists and tribal environmental specialists.
- Identify potential sources of EPA funding for those tribes interested in collaborating with DEC and EPA regarding solid waste projects.
- Work jointly with DEC, providing comments on the draft solid waste regulations for Alaska.

B. DEC Priorities

Alaska is different from the other Region 10 states. Alaska is the nation's only arctic state with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country and its oceans include the North Pacific Ocean, Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater is 47,300 miles. Alaska occupies 20% of the nation's land base, 40% of the nation's surface water, and contains half the nation's wetlands.

Alaska has vast proven and unexplored natural resources. Alaska oceans and coastal watersheds produce 25% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines including the world's largest operating zinc mine.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Alaska's resources, for the most part, are healthy, productive, and relatively pollution-free. EPA's 2004 report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States." The recent U.S. Commission on Ocean Policy report to the President and Congress recommended regional councils to coordinate the resource management and environmental protection activities of multiple federal and state government agencies.

Most of Alaska's communities are isolated, small, and can only be reached by air or water. There is no statewide power grid, so most Alaska communities depend on energy produced from individual community diesel generators. Alaska is also the home of 229 federally recognized tribes in Alaska – over 40 percent of the nation's total number of tribes.

Alaska's state resource agencies are actively pursuing appropriate forums for coordinating with their federal agency counterparts on environmental issues of mutual concern.

1. State due deference

DEC and EPA agree on the vast majority of environmental program implementation issues. However, on occasion, DEC has been expected to follow Region 10 staff direction that does not appear to be based in law or written guidance. While DEC is interested in EPA's professional advice, there is a need to distinguish it from mandatory guidance. Resolving these issues in a timely manner relies upon a commitment by both agencies to recognize the situation and act on it promptly. When DEC questions the basis for an EPA action, decision, or direction to the state,

DEC will:

- Make a "due deference claim" to the appropriate EPA office director, providing a precise description of the issue.

- In the case of an EPA decision based on a legal interpretation of federal law by EPA Program staff, DEC may request confirmation by state or EPA attorneys.

EPA will:

- Take actions, make decisions, and provide direction to DEC that is based only on law or written guidance and identify advisory information as such.
- Provide a prompt response to a DEC “due deference claim” by either 1. providing the written policy, guidance, law, or other documentation on which EPA is relying to support its action, decision or direction to DEC, or 2. by rescinding EPA staff direction.
- In the case of an EPA decision based on a legal interpretation of federal law by EPA Program staff, provide a legal basis for the interpretation from EPA attorneys.

EPA and DEC will:

- If a due deference claim by the state is not promptly resolved at the director or legal levels, elevate the issue through the PPA dispute resolution procedures.

2. Grant allocation parity

EPA national, promulgated guidance for Clean Water Act Section 106 funding includes a 10% cap on the elements that make up the funding formula; Alaska’s portion of 106 funding is reduced by this cap in the funding formula. This 10% cap affects three other states in a small way, but has an enormous impact on Alaska and the funding made available to Alaska. EPA national guidance for Clean Water Act Section 319 funds appears to be applied consistently across all other states, but is not applied as written by EPA to Alaska. The amount of funding received by Alaska weakens the State’s ability to achieve all program objectives expected by EPA. The results are most evident in 1) Alaska’s difficulty in implementing the 10 point monitoring strategy that is required by EPA in order to continue to received Clean Water Act funding, and 2) Alaska’s limited ability to implement non-point source pollution controls.

EPA continues to distribute Clean Water Action Section 104(b)(3) funding through multiple headquarters and regional office competitive grant offerings each year which is a very inefficient process for both EPA and the states in terms of grant solicitations, grant proposal development, and review and selection processes. Other Region 10 states have in past

years also expressed an interest in an annual allotment, rather than a competitive process. The competitive process has not resulted in grants to Alaska for top state priority projects.

DEC will:

- Provide EPA with PPG workplans that describe the State's work, priorities, work strategies and performance results.
- Provide EPA with an analysis of the funding impacts to DEC from EPA's current funding allocation systems for Clean Water Act Sections 106 and 319 funds.

EPA will:

- Review and approve DEC's PPG workplan commitments.
- Assist DEC in obtaining current funding formula application data from EPA headquarters in a timely manner.
- To the extent possible, consolidate regional Clean Water Act Section 104(b)(3) grant solicitations into a single offering.

3. Timely approval of NPDES primacy application

Establishing greater state control over managing water resources is a high priority for Alaska. Alaska is one of 5 remaining states that do not have NPDES primacy. Transferring control of the program to the remaining states is a high priority for EPA. Assuming legislation passes in the spring of 2005, DEC will develop an NPDES primacy application for submittal to EPA in June 2006. The timeframe is short and both agencies must work closely together to develop the application and ensure it is complete and approvable by EPA.

DEC and EPA will:

- Work together to develop regulations, a program description, a memorandum of understanding, and other necessary elements of a state NPDES primacy application.

DEC will:

- Seek EPA guidance and assistance while developing the primacy application.
- Provide an opportunity for EPA to review early drafts of all major elements of the primacy application.

EPA will:

- Dedicate managerial and legal staff to assist DEC with primacy application development and provide timely review of all draft primacy-related documents with a goal to provide responses to the state within two weeks of a request.

4. Timely approval of Water Quality Standards

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the Clean Water Act to conduct a comprehensive review of the Alaska's WQS every three years to integrate current science and technology. Before changes to the WQS can take effect for Clean Water Act purposes, they must be approved by EPA. When WQS are not revised and submitted by DEC, or reviewed and approved by EPA, in a timely manner, confusion arises as to what standards are in place. Delays may also impact other actions, such as issuing permits. DEC and EPA are committed to working together collaboratively to ensure that appropriate WQS are in place.

DEC and EPA will:

- Work together early in the WQS revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
- Work together to bring about the early involvement of NOAA-Fisheries and US Fish & Wildlife ("Services") in the development of a standards revision when an Endangered Species Act (ESA) or Essential Fish Habitat (EFH) consultation may be required.
- Continue to coordinate the timely involvement of the Services as needed to ensure that, wherever possible, ESA and EFH consultation requirements are completed within CWA approval timeframes.

DEC will:

- Inform EPA of WQS issues under consideration for revision. Provide a schedule, including dates, when EPA approval is needed and describe DEC's proposed approach and schedule before releasing revisions for public comment.
- Provide EPA an opportunity to review a draft revision and discuss their comments with DEC before the public comment period. To the extent possible, the draft documents provided to EPA should

- include a clear explanation of the technical support for the change (e.g., any technical literature reviews that were conducted to inform the revisions; clear discussions of how the changes affect the protectiveness of the standard for designated uses).
- In order to facilitate informal and timely ESA and EFH consultation, be prepared to engage in early exchange with the Services regarding WQS revisions under consideration and the technical basis for these revisions.

EPA will:

- Treat the approval of WQS as a high priority for achieving the water quality protection objective in Region 10's Strategic Plan.
- Provide "upfront" technical assistance to DEC on proposed revisions to Alaska's water quality standards.
- Perform timely and thorough Tribal consultation on WQS revisions.
- Perform timely and thorough ESA/EFH consultation.
- Where appropriate, raise issues that may be unique to Alaska waters in national WQS policy discussions.

5. Complete Statewide EMAP

DEC is committed to completing EPA's sponsored Environmental Monitoring and Assessment Program (EMAP) surveys to assess the status and trends of Alaska's coastline and freshwater. The information which is collected using standard protocols enables EPA to report on the condition of the nation's waters and enables EPA and the states to understand the range of water quality conditions and monitor for environmental change. Alaska has more coastline than the Lower 48 states combined and about half of the nation's surface water resources. EPA cannot report on the health of the nation's waters without including information from Alaska. To date, EPA has provided funding for three of Alaska's five coastal areas and is returning to other coastal states to re-sample, prior to completing Alaska's waters. Funding for baseline inland waters is limited to a small portion of one watershed.

EPA will:

- Act to help secure funding to complete the Northwest Alaska Beaufort Sea and the Northwest Bering and Chukchi Seas coastal assessments.
- Help communicate the need for the results and benefits of having Alaska's EMAP completed.

DEC will:

- Complete EMAP baseline surveys of the remaining coastal and inland waters.

6. Fish Tissue Monitoring

EPA periodically publishes nationwide health advisories on the safety of individuals consuming fish. DEC has collected fish from Alaskan waters every year, starting in 2001-2002 (580 samples), 2003 (582 samples), 2004 (629 samples). Fishes collected have included salmon (all five species), halibut, Pacific cod, sablefish, rockfish, lingcod, Pollock, northern pike, and sheefish. The fish have been processed at DEC's Environmental Health Laboratory and analyzed for heavy metals (methyl mercury, lead, arsenic, chromium, cadmium, selenium, & nickel). A subset of the fish samples collected is being analyzed at a commercial lab for dioxins and furans, pesticides, PCB and PBDE congeners, and inorganic arsenic.

DEC has developed a statewide sampling plan that defines: 1) where on-going sampling is needed for sentinel monitoring, 2) areas or species that need further evaluation, and 3) what new species or locations need to be assessed. EPA Region 10 has included fish contaminant surveys in their strategic plan for achieving the objective for fish and shellfish that is safe to eat. Congress has also recently appropriated \$1 million to EPA for the State of Alaska to monitor mercury levels in Alaska fish.

DEC will:

- Implement the statewide fish tissue monitoring plan for mercury and other contaminants.
- Maintain a web page where EPA, the public, and tribes can access data collected on the levels of mercury and other heavy metals found in Alaska fish.
- Submit to EPA a report of the data results when DEC has completed the evaluation and interpretation of study findings. This report will include all validated data from the analysis of fish tissue performed as part of the Fish Tissue Testing Program.
- Publish fish consumption bulletins with the Alaska Department of Health and Social Services regarding the benefits and risks of consuming Alaska fish.
- Provide EPA with all past and future validated fish tissue data.
- Hold public meetings to communicate the results of the program.

EPA will:

- Fund DEC's fish monitoring program with the congressional appropriation.
- Provide technical assistance to develop the QAPP and workplan for this project.
- Use Alaska's fish tissue data in developing consumption advice and consult with the Alaska Department of Health and Social Services and DEC before issuing any fish consumption advisories in the state of Alaska.
- Identify potential sources of EPA funding, including IGAP funding, for those tribes interested in collaborating with DEC and EPA regarding fish tissue testing.
- Inform tribes of the laboratory services (fish processing and analysis) that the DEC Environmental Health Laboratory has to offer for fish tissue testing and encourage the use of DEC's lab.

7. Non-point Source Pollution Controls

Non-point sources are significant contributors to water pollution in Alaska and elsewhere. There is a need for land use planning at the local level and the state and federal land-manager levels to prevent non-point source pollution and avoid costly waterbody restoration action on polluted waters.

DEC will:

- Working through the state land-management agency (Department of Natural Resources), institute non-point source pollution controls on state-managed lands. At a minimum these will include establishing minimum setbacks or management practices for water-polluting activities near water bodies in state land-use plans.

EPA will:

- Work with federal land-management agencies such as the Forest Service and Bureau of Land Management and in consultation with DEC, to institute non-point source pollution controls on federally-managed lands. At a minimum these will include establishing minimum setbacks or management practices for water-polluting activities near water bodies in federal land-use plans.

8. Environmental Health Laboratory Utilization

DEC is expected in FY 2006, to complete the construction of a state-of-the-art analytical Environmental Health Laboratory (EHL) laboratory in Anchorage. The new facility will house the Drinking Water Certification Program as specified by Environmental Protection Agency (EPA) guidelines as well as certified through ISO 17025 standards. Enhanced analytical capability and capacity will include a laboratory information management system (LIMS), new animal diagnostic and molecular biology sections, as well as upgrades in the chemistry section. The chemistry upgrades will provide high quality analytical data to support surveillance of Alaska Salmon and other seafood products, in addition to providing testing support to the EPA National Fish Advisory and Testing Program. Capabilities and equipment include an ICP/MS for the detection of heavy metals including arsenic, cadmium, chromium, lead, selenium, total mercury, methyl-mercury, and nickel. Examples of the advanced analytical techniques to be added include: inductively coupled plasma/mass spectrometry, high performance liquid chromatography/tandem mass spectrometry, high resolution gas chromatography/high resolution tandem mass spectrometry, time of flight mass spectrometry, among others. These tools will enable the Environmental Health Lab to characterize the full range of hazardous and/or toxic compounds in the event of an environmental incident and/or terrorist attack. It is DEC's intentions to make this laboratory available to EPA or EPA sponsored programs and urge EPA to consider it use in the future.

EPA and DEC will:

- Identify managers responsible for lab utilization. These managers will meet twice per year to evaluate the effectiveness of these provisions and recommend actions to improve utilization of the State of Alaska's Environmental Health Laboratory.

DEC will:

- Provide reliable and valid data as quickly as possible.
- Implement a quality assurance program.
- Use EPA approved methods when applicable.

EPA will:

- Encourage grants awarded by EPA for environmental research in Alaska to use the DEC environmental health laboratory when appropriate.

9. Drinking Water Rules and Primacy Delegation Approvals

The numerous and increasingly more complex federal drinking water rules continue to challenge the DEC Drinking Water Program requiring increased staff resources to complete timely adoption, primacy delegation approval, and reporting to EPA. Additional time is also spent in reviewing the regulatory packages with management, training staff to obtain a sound working knowledge of the rules for consistent statewide implementation.

DEC will:

- Assign staff to work with EPA to obtain extension agreements, when necessary, complete rule development or rule adoption packages, and primacy applications.

EPA will:

- Support the use of Extension Agreements for rule adoptions and provide timely guidance in the form of staff and written documentation to DEC on the statutory requirements for rule adoptions, primacy delegation, and program requirements.

Public Water System Compliance

New federal rules continue to challenge the overall ability of public water system owners and operators to achieve and maintain compliance for all the drinking water rules, to ensure that the public is being provided drinking water that meets all health-based standards.

DEC and EPA will:

- Clearly delineate, in writing, when and in what circumstances each agency will take on the enforcement role for drinking water systems.
- DEC and EPA senior managers will have quarterly discussions regarding Alaska's Capacity Development Program Strategy Implementation Status and define next steps accordingly.

DEC will:

- Provide compliance assistance consisting of written information and workshops for public water system owners and operators, utility managers, technical service providers, and consulting engineers on drinking water rule requirements.
- Focus increased resources, when available, on enforcement activities for those public water systems on EPA's Significant Noncompliers (SNC) List before the water systems become SNC Exceptions and are noted on the EPA SNC Exceptions List.
- DEC will work with the Attorney General's office and EPA Headquarters to recognize Notices of Violations as formal enforcement actions.

EPA will:

- Provide in person and "hands-on" training workshops in Alaska using EPA staff or contractors, as well as fully utilize satellite videoconferences with downlink sites in Alaska, and webcast training seminars for DEC staff, public water system owners and operators, utility managers, technical service providers, and consulting engineers on the implementation requirements of new federal rules. Alaska is specifically requesting the EPA-sponsored and taught Arsenic Training workshop in Alaska during Fall 2005.
- In partnership with DEC, and when requested, complete timely enforcement on public water system referrals with a significant history on noncompliance and non cooperation with DEC.

10. Pesticide Application Technical Assistance

DEC implements a comprehensive pesticide program in the state. Alaska has had primary enforcement responsibility for pesticide misuse since 1989. DEC also trains and licenses pesticide applicators, and implements ground water, worker, and endangered species protection programs. All these programs are part of the Cooperative Agreement between EPA and DEC. The Department also implements a Pesticide Registration Program, which is not part of the Agreement. The mission of the DEC Pesticide Program is to protect human health, safety, and welfare, animals, and the environment by ensuring the proper use, sale, distribution, and disposal of pesticides.

DEC and EPA will:

- conduct a joint evaluation process that focuses on the reporting items specified in the PPG workplan.
- conduct a mid year evaluation to review the current program accomplishments in relation to the PPG workplan.

- within 60 days after the end of the budget period, conduct an evaluation and review the accomplishments for the year. Both parties shall jointly prepare an evaluation report.

EPA will:

- Provide technical assistance to DEC Pesticide Program staff as needed.

11. Collaborative Training

Both EPA and DEC are involved in the daily business of setting and enforcing environmental standards, implementing permit programs in compliance with federal law, and assessing environmental risks for communicating with the general public and interested stakeholders. DEC and EPA could both benefit from joint training programs in each of these areas.

EPA and DEC will:

- Identify a point of contact within each of the organizations that can assist in coordinating the notification and scheduling of available training opportunities.

DEC will:

- Work with EPA to identify joint training opportunities and appropriate subject areas.
- Apply for a grant under the 104(b)(3) section of the Clean Water Act with the intention of using the funds to obtain NPDES training in Alaska.

EPA will:

- As DEC approaches NPDES primacy, EPA will seek to ensure needed training is made available in Alaska including training in NPDES permitting, enforcement and the Water Quality Standards.

V. Compliance and Enforcement

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in “Indian Country” in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state’s environmental

laws and delegated federal environmental programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.

EPA and DEC will coordinate enforcement and compliance with each other in a manner consistent with the May 1997 Agreement on Compliance Assurance Principles and March 1988 Compliance Assurance and Evaluation Principles agreed to by the Region 10 States and EPA. EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC's Enforcement Manual and (2) the Compliance Assurance Agreement between DEC's Air Permits Program and the EPA Office of Air.

VI. Performance Reporting and Evaluation.

As a condition of this agreement and subsequent grants awarded to DEC by EPA, DEC will report accomplishments to EPA semi-annually and EPA will report its accomplishments semi-annually to DEC. Reports will be based on information supporting performance measures and program activity measures identified in this agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. The reports will be exchanged by January 30 and July 30 of 2006. EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

Reporting requirements are identified in this agreement and the workplans in Sections VII and VIII. In order to reduce transaction costs, any other reporting needs will be kept to a minimum need to meet national requests and particular, applicable program activity measures.

EPA and DEC programs directors agree to meet in September to discuss strategic environmental issues in Alaska. Information from this discussion will be used by each agency when developing subsequent strategies and budgets.

VII. Conflict Resolution.

Parties to this agreement realize there may be different expectations and understandings of the terms of this agreement by each party from time-to-time. Resolving those differences early will keep each party focused on the intent of the agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to resolve disagreements that prevent accomplishments mutually, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusions of the director elevation. However, significant issues may remain and will be addressed between the agency heads.

Workplan activities that are being reviewed under a dispute resolution process may continue until such time as the senior program managers agree to alter that activity.

VIII. Air and Pesticides workplan (attached).

IX. Water workplan (attached).

X. Drinking Water workplan (attached).